

**UNITED STATES DEPARTMENT OF COMMERCE****Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/764,718	01/18/01	WNEK	P 5887.00

020686 QM32/0914
DORSEY & WHITNEY, LLP
SUITE 4700
370 SEVENTEENTH STREET
DENVER CO 80202-5647

EXAMINER

CASTELLANO, S

ART UNIT	PAPER NUMBER
3727	

DATE MAILED: 09/14/01

4

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.	09/764,718	Applicant(s)	Winkel
Examiner	Castellano	Group Art Unit	3727

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication .
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- Responsive to communication(s) filed on _____.
- This action is FINAL.
- Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

Claim(s) 1-16 is/are pending in the application.

Of the above claim(s) _____ is/are withdrawn from consideration.

Claim(s) _____ is/are allowed.

Claim(s) 1-16 is/are rejected.

Claim(s) _____ is/are objected to.

Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- The proposed drawing correction, filed on _____ is approved disapproved.
- The drawing(s) filed on _____ is/are objected to by the Examiner.
- The specification is objected to by the Examiner.
- The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - All
 - Some*
 - None of the CERTIFIED copies of the priority documents have been
 - received.
 - received in Application No. (Series Code/Serial Number) _____.
 - received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Attachment(s)

- Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- Notice of Reference(s) Cited, PTO-892
- Notice of Draftsperson's Patent Drawing Review, PTO-948
- Interview Summary, PTO-413
- Notice of Informal Patent Application, PTO-152
- Other _____

Office Action Summary

Art Unit: 3727

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Petitto.
3. Claims 1-6 and 9-11 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Compton.
4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 12, 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Petitto in view of Compton.

Petitto discloses the invention except for second outwardly projecting bulge on the outer surface of the side wall is not positioned below the first outwardly projecting bulge on the outer surface, the paperboard material and the laminate including a microwave susceptor layer.

Compton discloses first and second outwardly projecting bulges on the outer surface of the side wall with the second bulge located beneath the first bulge. It would have been obvious to add a second bulge in order to reinforce the side wall and add strength to the side wall to resist warping,

Art Unit: 3727

buckling and other permanent deformations from occurring. Paperboard is a well known material for containers. It would have been obvious design choice to make the container from paperboard to provide a less costly, disposable material which degrades faster with less harm to the environment. Microwave susceptor layers are well known. It would have been obvious to add a microwave susceptor layer to the container to make the container capable of reaching a high enough temperature during micro waving to cook the food contents.

6. Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Compton or Petitto.

Compton or Petitto disclose the invention except for the paperboard material. Paperboard is a well known material for containers. It would have been obvious design choice to make the container from paperboard to provide a less costly, disposable material which degrades faster with less harm to the environment.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

8. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (703)305-3579. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into group 3720 will be promptly forwarded to the examiner.

Art Unit: 3727

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Castellano whose telephone number is (703)-308-1035.



Stephen Castellano
Primary Examiner
Art Unit 3727

September 10, 2001